

SAN JOSE APPEALS HEARING BOARD MINUTES  
THURSDAY, JANUARY 24, 2008  
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Room W120, City Hall, with the following members in attendance: Chairperson Clark Williams, Commissioners Calvin Chu, Sonja Etienne, Jose Hernandez, Troy Overton, Karen Parsons, and Susan Ruscigno.

Staff Present: Evet Loewen, Senior Deputy City Attorney  
Peggy Rollis, Administrator of Code Enforcement  
Diane Buchanan, Code Enforcement  
Eusebio Espitia, Code Enforcement  
Garry McLeod, Code Enforcement  
Peter Nwokolo, Code Enforcement  
James Young, Code Enforcement  
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Clark Williams read a statement to the public requesting that speakers identify themselves and state their address. Chairperson Clark Williams welcomed Commissioner Chu to the Appeals Hearing Board meeting. There was a motion by Commissioner Hernandez, seconded by Commissioner Parsons, to approve the minutes of December 13, 2007.

3. **Request for Excused Absence**

4. **Deferred or Continued Items**

- a. **1949 Park Avenue (274-06-024) Administrative Remedy**  
(Garry McLeod, Inspector / Joseph & Sladana Lucich, Property Owners)

Code Enforcement Inspector Garry McLeod testified and gave a brief summary of the inspections he had observed at the subject property. Inspector McLeod stated that the property owner had asked for a continuance at the last meeting on November 8, 2007. Inspector McLeod requested that the property owner pay administrative penalties from November 9, 2007 to January 24, 2008 at \$40 a day for a total of \$4640.00. Commissioner Hernandez asked Inspector McLeod if the foundation was a hazard since the recent earthquakes. Inspector McLeod stated that there is no immediate hazard with the foundation that can be identified.

Property owner Mike Lucich was present. Mr. Lucich stated that he tried to comply with the city's request sooner, but was not able to make the repairs until the tenant vacated the property. Mr. Lucich stated that when he hired the contractors, he assumed that they had permits. Mr. Lucich also stated that he was in a depressed state of mind because of his mother's passing and was not able to make the repairs earlier.

Commissioner Overton asked Mr. Lucich the status of the water heater. In response, Mr. Lucich stated that the water heater had the wrong product on top of the heater. The heater is now fixed and working. Inspector McLeod stated that PG&E inspected the water heater and verified that the water heater was repaired as of January 14, 2008.

Contractor Nicola Joncic stated that he has obtained all the permits required by the City of San Jose and also left a message with Inspector McLeod. Mr. Joncic stated that the water heater has been repaired.

There was a motion by Commissioner Overton, seconded by Commissioner Etienne, to order as follows:

To support the City's recommendation and change all the Order to Correct dates from February 1, 2008 to on or before March 1, 2008. Administrative Penalties in the amount of \$4640.00 are to be held in abeyance until March 1, 2008.

AYES: Chu, Etienne, Hernandez, Overton, Ruscigno and Williams  
NAYS: Parsons  
ABSENT:

## **5. Public Hearing**

### **a. 528 W. Virginia (264-41-002) Summary Abatement** (Garry McLeod, Inspector / Michael V. Bondarenko, Property Owner)

Code Enforcement Inspector Garry McLeod testified and briefly explained the vacant housing program. Inspector McLeod presented photos of the subject property and stated that the unsecured vacant property is located across from an elementary school. Inspector McLeod stated that entry by unauthorized persons gained access to inside the property.

The property owner was not present.

There was a motion by Commissioner Ruscigno, seconded by Commissioner Parsons, to order as follows:

To uphold the City's abatement action to secure the property.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams  
NAYS:  
ABSENT:

**b. 1632 Pensacola Drive (491-23-007) Administrative Remedy  
(James Young, Inspector / Gabriela & Rafael Villanueva, Property Owners)**

Code Enforcement Inspector James Young gave a summary of the inspections he had observed at the subject property. Inspector Young stated that the garage has been converted into living space.

The property owner was present. Mrs. Villanueva had a translator present her case before the Board. Mrs. Villanueva stated that the previous owner converted the garage and there was a complaint against the previous property owner, however, nothing was done about it. Mrs. Villanueva stated that she does not have the funds available to obtain the permits and that she is selling the house.

Commissioner Overton asked the property owner if anyone is presently living in the garage and did she receive rent monies. In response, Mrs. Villanueva stated that her two cousins lived in the garage and paid \$500 rent.

There was a motion by Commissioner Overton, seconded by Commissioner Etienne, to order as follows:

To adopt the City of San Jose's recommendation.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams  
NAYS:  
ABSENT:

**c. 1947 Park Avenue (274-06-024) Administrative Remedy  
(Garry McLeod, Inspector / Joseph & Sladana Lucich, Property Owners)**

Code Enforcement Inspector Garry McLeod testified and gave a brief summary of the housing violations observed at the subject property. Inspector McLeod stated that

there was no contact from the property owner and that after the property had received a notice for 1949 Park Avenue, work started to occur after December 2007.

Inspector McLeod stated that the carpet, door, and screen holes has been repaired to the minimum requirements. Inspector McLeod stated that as of three days ago, the roof has been repaired and that a permit has been issued and finalized.

Property owner Mr. Mike Lucich was present. Mr. Lucich stated that he could not make the repairs because he could not get into the unit because the tenant had changed the locks. Mr. Lucich stated that the tenant would not cooperate and refused hotel accommodations so the property could be repaired.

Commissioner Parsons asked Inspector McLeod if he had knowledge that the property owner could not get into the property. In response, Inspector McLeod stated that the issue went to court and the judge reduced the tenant's rent and ruled that the tenant does not have to pay rent until the repairs are made.

Contractor Nikola presented the Board with invoices for the carpet cleaning and roofing.

Inspector McLeod stated that as of three days ago everything has been satisfied.

There was a motion by Commissioner Etienne, seconded by Commissioner Hernandez, to order as follows:

To uphold the administrative costs of \$857.77 and the administrative penalties in the amount of \$1000.00.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams  
NAYS:  
ABSENT:

**e. 789 Helen Street (264-42-059) Summary Abatement  
(Garry McLeod, Inspector / Paz Heredia, Property Owner)**

Code Enforcement Inspector McLeod testified and gave a brief summary of his observations of the subject property and showed photos of the collapsed fence.

The property owner was not present.

There was a motion by Commissioner Parsons, seconded by Commissioner Chu to order as follows:

To uphold the abatement actions taken by the City of San Jose's Code Enforcement Division.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

**f. 560 Minor Avenue (264-22-114) Summary Abatement**

**(Garry McLeod, Inspector / Theodore Williams, Property Owner)**

Code Enforcement Inspector Garry McLeod testified and gave a brief summary of his inspections at the subject property. Inspector McLeod presented photos of the unsecured vacant building and the broken and missing windows on the building.

The property owner was not present.

There was a motion by Commissioner Chu, seconded by Commissioner Overton, to order as follows:

To uphold the abatement actions by the City of San Jose's Code Enforcement Division.

AYES: Chu, Etienne, Hernandez, Overton, Parsons, Ruscigno, Williams

NAYS:

ABSENT:

**6. DISCUSSION**

**7. ORAL COMMUNICATIONS FROM THE PUBLIC**

**8. ADJOURNMENT**

There was a motion by Commissioner Ruscigno, seconded by Commissioner Parsons to adjourn the meeting. Chair Clark Williams adjourned the meeting at 8:00 p.m. The next regular meeting will be held on Thursday, February 28, 2008 at 6:30 p.m., at the City Hall Council Chambers.